Disciplinary and Other FINRA Actions

Reported for January 2011

FINRA® has taken disciplinary actions against the following firms and individuals for violations of FINRA rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

Firm Expelled

Jesup & Lamont Securities Corp (CRD® #39056, New York, New York) was expelled from FINRA membership. The sanction was based on findings that the firm failed to timely respond to FINRA requests for documents and information. **(FINRA Case #2009020539501)**

Firms Expelled, Individuals Sanctioned

CMG Institutional Trading LLC (CRD #47264, Chicago, Illinois) and Shawn Derrick Baldwin (CRD #4281564, Registered Principal, Chicago, Illinois). The firm was expelled from FINRA membership and Baldwin was barred from association with any FINRA member in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm, acting through Baldwin, failed to respond to FINRA requests for information and documents. **(FINRA Case #2008012026601)**

Legacy Trading Co., LLC (CRD #46598, Edmond, Oklahoma) and Mark Alan Uselton (CRD #2229571, Registered Principal, Edmond, Oklahoma). The firm was expelled from FINRA membership and Uselton was barred from association with any FINRA member in any capacity. The firm and Uselton were jointly and severally fined $907,035.01, plus interest. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that the firm, acting through Uselton, made false statements to FINRA. The findings stated that Uselton also provided false information and failed to provide testimony at a FINRA on-the-record interview. The findings also stated that the firm, acting through Uselton, failed to make and annotate affirmative determinations prior to effecting short sales; the firm and Uselton failed to maintain the required records necessary to rely upon the exemption in Exchange Act Rule 15c2-11(f)(2), and failed to maintain the firm's email records for at least three years.

FINRA found that the firm and Uselton failed to establish, maintain, and enforce an adequate supervisory system and written supervisory procedures, and Uselton failed to timely update his Uniform Application for Securities Industry Registration or Transfer (Form U4) with material facts. **(FINRA Case #2005000879302)**

Firms Fined, Individuals Sanctioned

USA Advanced Planners, Inc. (CRD 131282, Grand Rapids, Michigan), Michael Timothy Rodman (CRD #1260483, Registered Principal, Rancho Santa Fe, California) and Dennis Clare Tubbergen (CRD #2505625, Registered Principal, Fremont, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and ordered to pay, jointly and severally with Rodman, partial restitution to customers in the total amount of $351,995, plus interest. Tubbergen was censured and ordered to pay $52,647 of the total partial restitution, jointly and severally. Rodman was suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Rodman and Tubbergen, executed variable life settlement transactions and charged commissions that were excessive, unreasonable and unfair, taking into consideration all relevant circumstances. The findings stated that the firm failed to inform each customer who engaged in a life settlement of the amount of the commissions it received for the transactions either before or after the conclusion of the transactions. The findings also stated that because variable life settlement transactions are securities transactions, the firm was required to provide the customers with a confirmation of the transaction, which the firm failed to provide. The findings also included that the firm failed to establish and maintain a system and establish and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules related to its variable life settlement business.

Rodman's suspension was in effect from December 20, 2010, through January 3, 2011. **(FINRA Case #2007011559701)**

Torrey Pines Securities, Inc. (CRD #17120, San Diego, California) and Nicolette Irisa Denney (CRD #1090644, Registered Principal, Temecula, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $17,500. Denney was suspended from association with any FINRA member in any principal capacity, other than the capacity of municipal securities principal, for 10 business days. In light of Denney's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, the firm and Denney consented to the described sanctions and to the entry of findings that Denney, acting on the firm's behalf, failed to ensure that a firm principal completed his annual certification as the firm's procedure required, and did not follow up on the principal's failure to provide information regarding both his outside business activities and the accounts for which he served as a custodian or trustee. The findings stated that Denney, acting on her firm's behalf, conducted an inspection of a firm branch office, and that inspection did not comport with the firm's written procedures and did not reasonably review the activities of that office. The findings also stated that Denney did not review the transmittal of funds between the principal's customers and a third party as the firm's written supervisory procedures required, and failed to obtain details regarding the principal's outside business activities. The findings also included that the firm failed to reasonably supervise the principal by failing to take steps to inquire into "red flags"

indicating his possible misconduct; failing to follow up on his outside business activities and excessive absences from the firm; failing to timely investigate allegations that he was participating in private securities transactions away from the firm; and when the firm confirmed his selling away activities, it did not take any steps to place him on heightened supervision.

FINRA found that the firm's written supervisory procedures were not reasonably designed to ensure principal review of wires from customers to third parties, so it was unaware the principal's customers were transferring large sums to a third party and that he was executing Letters of Authorization (LOAs) on behalf of multiple customers.

Denney's suspension was in effect from December 20, 2010, through January 3, 2011. **(FINRA Case #2007011125103)**

Firm Sanctioned, Individual Sanctioned

Cambridge Legacy Securities, L.L.C. (CRD #103722, Dallas, Texas) and Tommy Edward Fincher (CRD #1725266, Registered Principal, Mesquite, Texas) submitted a Letter of Acceptance Waiver and Consent in which the firm was censured and ordered to pay $218,400 in restitution to customers. If the firm fails to provide FINRA with proof of restitution, it shall immediately be suspended from FINRA membership until such proof has been provided. Fincher was fined $5,000 and suspended from association with any FINRA member in any principal capacity for six months.

Without admitting or denying the findings, the firm and Fincher consented to the described sanctions and to the entry of findings that the firm failed to have reasonable grounds to believe that a private placement offered pursuant to Regulation D was suitable for any customer; and, acting through Fincher, its Chief Compliance Officer and registered principal, the firm failed to conduct adequate due diligence of the private placement offering before allowing its brokers to sell the security. The findings stated that Fincher was the principal responsible for conducting due diligence on the offering and approved the security as a new product available for firm brokers to sell to their customers; he allowed the firm's brokers to continue selling the security despite its ongoing failure to make overdue interest and principal payments. The findings also stated that the firm failed to have reasonable grounds for allowing the continued sale of the security even though the firm, through Fincher, was aware of numerous red flags concerning liquidity problems, delinquencies and defaults, but allowed its brokers to continue selling the security. The findings also included that the firm, acting through Fincher, failed to maintain a supervisory system reasonably designed to achieve compliance with applicable securities laws and regulations, and failed to enforce reasonable supervisory procedures to detect or address potential red flags as it related to the offering.

Fincher's suspension is in effect from January 3, 2011, through July 2, 2011. **(FINRA Case #2009020319001)**

Firms Fined

American Enterprise Investment Services Inc. (CRD #26506, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $15,000 and required to revise its written supervisory procedures regarding trade reporting for transactions reported via give-up agreements. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that pursuant to a give-up agreement with a non-member firm, it reported last sale reports of over-the-counter (OTC™) equity securities transactions to the OTC Reporting Facility (OTCRF) it was not required to report because the transactions were executed on, and had been reported to, a foreign securities exchange. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning trade reporting for transactions reported via give-up agreements. **(FINRA Case #2008014176701)**

Barclays Capital Inc. (CRD #19714, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $60,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to reconcile its various balance sheets and ledgers. The findings stated that although the accounting errors were large, most were overstatements of credits and/or understatements of debits, none of which resulted in a net capital deficiency under Securities Exchange Act Rule 15c3-1 and only one resulted in a customer reserve account hindsight deficiency under Securities Exchange Act Rule 15c3-3. The findings also stated that the firm had a customer reserve account hindsight deficiency under Exchange Rule 15c3-3 due to a recurring error in which it failed to treat an affiliate account as a customer account. The findings also included that the firm did not have adequate supervision to detect discrepancies between its various internal records and failed to maintain and keep current, as well as preserve, certain books and records. **(FINRA Case #2009017479101)**

Brecek & Young Advisors, Inc. (CRD #40395 Folsom, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to have a supervisory system, including written supervisory procedures, reasonably designed to ensure that its registered representatives charged its customers reasonable markups or markdowns and commissions on equity securities transactions (Commission Policy). The findings stated that the firm did not provide sufficient training or guidance to its registered representatives, its trading department or its Office of Supervisory Jurisdiction (OSJ) managers to detect violations of the firm's Commission Policy, nor did it adequately provide for the use of exception reports to conduct a review of commission charges its registered representatives assessed. The findings also stated that the firm failed to establish adequate processes or have documented written supervisory procedures as to how it would handle a violation of the Commission Policy. **(FINRA Case #2008011574401)**

Capital Investment Brokerage, Inc. (CRD #40657, Raleigh, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $12,500 and required to revise its written supervisory procedures regarding the Order Audit Trail System (OATS™) reporting requirements. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit all of its Reportable Order Events (ROEs) to OATS on numerous business days that it was required to transmit. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS reporting requirements. **(FINRA Case #2007011222001)**

Capital Investment Group, Inc. (CRD #14752, Raleigh, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $12,500 and required to revise its written supervisory procedures regarding OATS reporting requirements. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, on numerous business days, to transmit all of its ROEs to OATS that it was required to transmit. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS reporting requirements. **(FINRA Case #2007009929801)**

Cohen & Company Securities, LLC (CRD #104002, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $50,000, ordered to pay $899,251, plus interest, in restitution to customers, and required to review its supervisory system and procedures concerning its pricing of principal transactions with customers for compliance with FINRA rules and the federal securities laws, and to certify to FINRA within 90 days that it has in place systems and procedures reasonably designed to achieve compliance with laws, regulations and rules concerning charging fair prices in principal transactions with customers, including transactions in debt securities. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it charged excessive mark-ups in the sales of investment grade Collateralized Debt Obligation (CDO) securities in which it acted as principal. The findings stated that the firm sold, as principal, CDO securities to institutional customers at prices that were not fair and reasonable taking into consideration all relevant circumstances, including that the price was not reasonably related to the amount the firm contemporaneously paid for the CDO securities and that the securities had an investment grade rating as determined in accordance with NASD IM-2440-2(b)(9). The findings also stated that at the time of these transactions, the firm had failed to establish, maintain and/or enforce a supervisory system and written supervisory procedures reasonably designed to ensure that prices at which it bought debt securities from, and at which it sold debt securities to, customers in principal transactions were fair and reasonable and to otherwise achieve compliance with all applicable laws, rules and regulations pertaining to effecting principal transactions with customers. **(FINRA Case #2009016281001)**

Fidelity Brokerage Services LLC (CRD #7784, Smithfield, Rhode Island) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to determine in all municipal securities transactions whether the underlying credit rating of the issuer of an insured municipal security constituted material information that was required to be disclosed at or before the time of purchase. The findings stated that the firm failed to disclose to customers in connection with municipal securities transactions, all material facts at or before the time of purchase, in that the firm failed to disclose to customers the underlying credit rating of insured municipal bonds at or prior to the time of purchase. **(FINRA Case #2008015470101)**

First American Capital and Trading Corporation (CRD #118812, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $22,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to maintain its minimum net capital requirement when it erroneously carried short sales in U.S. Treasury bonds, totaling $100 million in its proprietary account instead of executing a long position of $50,000,000 and a short position of $50,000,000, which resulted in a net deficiency of $5,584,444. The findings stated that the firm failed to make, keep and preserve the order tickets for the bond transactions that led to the net capital deficiency. The findings also stated that the firm failed to establish, maintain or enforce written supervisory procedures reasonably designed to supervise and monitor the trading limits for its fixed income traders, which led to the undetected and uncorrected U.S. Treasury bond transactions that caused the firm's net capital to be deficient. **(FINRA Case #2007009194301)**

Glendale Securities, Inc. (CRD #123649, Sherman Oaks, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $45,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to adequately implement or enforce its anti-money laundering (AML) compliance program and otherwise comply with its AML obligations, as the firm did not identify and analyze numerous transactions to determine if they were suspicious and were required to be reported to the Department of Treasury's Financial Crimes Enforcement Network (FinCEN) on a Suspicious Activity Report-Securities/Futures Form (Form SAR-SF). The findings stated that the firm permitted foreign corporate accounts, all of which were controlled by one individual, to deposit a total of approximately 279 million shares of low-priced securities and/or penny stocks into the accounts, and after the securities were deposited into the accounts, they were promptly sold and all proceeds from the transactions were disbursed by wires to first-party bank accounts maintained with a Scotland bank. The findings also stated that the firm permitted these suspicious activities to occur without conducting adequate AML reviews and failed to file Forms SAR-SF as appropriate. The findings also included that the firm had no written procedures to detect and prevent participation in an unregistered distribution of securities.

FINRA found that the firm had no written procedures addressing the acceptance of securities in either certificate or electronic form and the corresponding sales of those securities; the firm relied primarily on transfer agents to determine whether the securities were free trading. FINRA also found that upon receipt of a large block of a low-priced stock (which was, in certain instances, unregistered), the firm's due diligence was essentially limited to verifying that the security was electronically quoted and contacting the transfer agent to determine the number of outstanding shares and whether the shares were free trading. In addition, FINRA determined that, among other things, the firm failed to inquire about the length of time the securities had been held; how, when, and under what circumstances the securities had been acquired; the relationship, if any, between the customer and the issuer; and/or how much stock was owned by or under the customer's control. **(FINRA Cases #2009019747601/20060075263)**

Heartland Investment Associates, Inc. (CRD #26974, Hiawatha, Iowa) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in Trade Reporting and Compliance Engine™ (TRACE™)-eligible securities to TRACE within 15 minutes of execution time. The findings stated that the firm failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE, and failed to show the execution time on brokerage order memoranda. **(FINRA Case #2009017156101)**

Island Trader Securities, LLC (CRD #111468, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it made publicly available a report on its routing of non-directed orders in covered securities during a calendar quarter that included incorrect information by representing each partial execution of orders as an individual order. **(FINRA Case #2009020594501)**

Janney Montgomery Scott, LLC (CRD #463, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $175,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish certain elements of an adequate AML program reasonably designed to achieve and monitor its compliance with the requirements of the Bank Secrecy Act and implementing regulations promulgated by the Department of Treasury. The findings stated that the firm failed to establish policies and procedures reasonably expected to detect and cause the reporting of transactions required under 31 USC 5318(g) by failing to provide branch office managers with reports that contained adequate information to monitor for potential money-laundering and red flag activity; and for the firm's compliance department to perform periodic reviews of wire transfer activity, require either branch managers or the AML compliance officers to document reviews of AML alerts in accordance with firm procedures, identify the beneficial owners and/or

agents for service of process for some foreign correspondent banks accounts, and establish adequate written policies and procedures that provided guidelines for suspicious activity that would require the filing of a Form SAR-SF. The findings also stated that the firm failed to establish policies and procedures that required ongoing AML training of appropriate personnel related to margin issues, entering new account information, verifying physical securities and handling wire activity. The findings also included that the firm failed to ensure that its third-party vendor verified new customers' identities by using credit and other database cross-references, and after the firm determined that the vendor's lapse was resolved, it failed to retroactively verify customer information not previously subjected to the verification process.

FINRA found that the firm failed to establish procedures reasonably expected to detect and cause the reporting of suspicious transactions required under 31 USC 5318(g), in that it failed to include in its AML review the activity in retail accounts institutional account registered representatives serviced. FINRA also found that the firm failed to review accounts that a producing branch office manager serviced under joint production numbers, and failed to evidence in certain instances timely review of letters of authorization, correspondence, account designation changes, trade blotters, branch manager weekly review forms and branch manager monthly reviews; failed to follow procedures intended to prevent producing branch office managers from approving their own errors; and failed to follow procedures intended to prevent a branch office operations manager from approving transactions in her own account and an assistant branch office manager from reviewing transactions in accounts he serviced. In addition, FINRA determined that the firm failed to establish procedures for the approval and supervision related to employee use of personal computers and, during one year, permitted certain employees to use personal computers the firm did not approve or supervise.

Moreover, FINRA found that for one year, the firm's annual acknowledgement form failed to include a question requiring its registered representatives to disclose outside securities accounts and the firm could not determine how many remained unreported due to the supervisory lapse. Furthermore, FINRA found that the firm failed to follow policies and procedures requiring the pre-approval and review of the content of employees' radio broadcasts, television appearances, seminars and dinners, and materials distributed at the seminars and dinners; representatives conducted seminars that were not pre-approved by the firm's advertising principal as required by its written procedures; the firm failed to maintain in a separate file all advertisements, sales literature and independently prepared reprints for three years from date of last use; and a branch office manager failed to review a registered representative's radio broadcast.

FINRA found that a branch office manager failed to maintain a log of a registered representative's radio broadcasts and failed to tape and/or maintain a transcript of the broadcasts and there was no evidence a qualified principal reviewed or approved the registered representative's statements. FINRA also found that branch office managers did

not retain documents reflecting the nature of seminars, materials distributed to attendees or supervisory pre-approval of the seminars; retain transcripts of a representative's local radio program and TV appearances or document supervisory review or approval of materials used; and retain documents reflecting the nature of a dinner or seminar conducted by representatives or materials distributed.

In addition, FINRA determined that the firm distributed a document, *Characteristics and Risks of Standardized Options,* that was not current, and the firm lacked procedures for advising customers with respect to changes to the document and failed to document the date on which it was sent to certain customers who had recently opened options accounts. The findings also stated that the firm's compliance registered options principal did not document weekly reviews of trading in discretionary options accounts. The findings also included that the firm failed to record the identity of the person who accepted each customer order because it failed to update its order ticket form to reflect the identity of the person who accepted the order. FINRA found that the firm failed to review Bloomberg emails and some firm employees' instant messages. **(FINRA Case #2007009458001)**

Jupiter Distribution Partners, Inc. (CRD #130850, Greenacres, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to preserve and maintain electronic communication in a non-rewriteable and non-erasable format, and failed to preserve and maintain electronic communication received by and sent to a hand-held electronic device one of its registered representatives operated. The findings stated that the firm failed to have adequate procedures that addressed the retention of electronic communication arising from the use of a hand-held electronic device. The findings also stated that the firm failed to prepare accurate net capital computations by erroneously treating revenue received from a customer as being immediately earned, and as a consequence, the firm failed to file an accurate Financial Operational & Combined Uniform Single (FOCUS™) Report. **(FINRA Case #2009015972701)**

Keybanc Capital Markets Inc. (CRD #566, Cleveland, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $13,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of finding that it had a fail-to-deliver position at a registered clearing agency in an equity security that resulted from a long sale, and failed to immediately thereafter close out the fail-to-deliver position by purchasing securities of like kind and quantity no later than the beginning of regular trading hours on the third consecutive settlement day following the settlement date for the transaction (i.e., T+6). The findings stated that the firm continued to have a fail-to-deliver position in the security at the registered clearing agency for four settlement days from T+6 through a later date. **(FINRA Case #2008015158801)**

Kildare Capital, Inc. (CRD #45796, Radnor, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) within 15 minutes of trade time to an RTRS Portal. The findings stated that the firm failed to enforce its written supervisory procedures by failing to access and review its reported municipal securities transaction data through MSRB's Dealer Feedback Services, as the firm's procedures required on at least a monthly basis. **(FINRA Case #2009019384401)**

Leigh Baldwin & Co., LLC (CRD #38751, Cazenovia, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $10,000 and required to revise its written supervisory procedures regarding OATS reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS; transmitted Execution Reports to OATS that the OATS system was unable to link to the related trade report in the NASD trade reporting system due to inaccurate, incomplete or improperly formatted data; and transmitted New Order Reports and related subsequent reports where the timestamp for the related subsequent report occurred prior to the receipt of the order, thereby preventing the OATS system from creating an accurate, time-sequenced record from the receipt of the order through its resolution. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS reporting. **(FINRA Case #2008012769601)**

Merrill Lynch, Pierce, Fenner & Smith Incorporated (CRD #7691, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $500,000 and required within 60 days of execution of the AWC to distribute a stand-alone letter to each current customer who resided in a state that offered 529-related state tax benefits at the time the customer opened an advisor-sold specific 529 plan account at the firm from June 2002 through February 2007; the letter instructed the customers to call a designated firm phone number with inquiries, concerns or complaints regarding their 529 investment. If requested within 180 days of mailing of the 529 letter, the firm would assist in transferring or rolling over any customer's investment in the specific plan into a 529 plan of the customer's choice within his/her home state, regardless of whether the firm currently offered such 529 plan, with the firm waiving any and all client fees, costs in connection with the sale, transfer, or roll-over of the specific plan; and/or any and all client fees, costs due to the firm in connection with the initial purchase of a 529 plan within the customer's home state using the proceeds of the specific plan. The firm shall provide FINRA semi-annually or upon FINRA request, until December 31, 2011, a report describing each question, oral/written inquiry, concern or complaint received through the designated number or any written complaint otherwise received by the firm concerning the specific plan from the 529 letter recipients, along with a description of how the firm addressed or resolved the inquiries, concerns or complaints of each such customer.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that during the period in question, it sold over $3 billion in 529 plans. The findings stated that the firm required registered representatives to consider potential state tax benefits offered by a state in which a client resides as a factor before recommending an out-of-state 529 plan, but the firm failed to establish and maintain specific procedures reasonably designed to achieve compliance with industry suitability standards related to the sale of 529 plans. The findings also stated that the firm's written supervisory procedures did not adequately ensure that its registered representatives were considering state income tax benefits during their 529 suitability analyses. The findings also included that the firm failed to establish and maintain written supervisory procedures requiring supervisors to perform and document reviews to determine if registered representatives were complying with suitability requirements before recommending a 529 plan purchase. FINRA found that the firm did not have effective procedures relating to documenting its suitability determinations in connection with the sale of 529 plans. **(FINRA Case #2009018907001)**

Mizuho Securities USA Inc. (CRD #19647, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $10,000 and required to revise its written supervisory procedures regarding trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it reported last sale reports of transactions in designated securities to the FINRA/NASDAQ Trade Reporting Facility (FNTRF) it was not required to report. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning trade reporting. **(FINRA Case #2009020099801)**

Neuberger Berman LLC (CRD #2908, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted New Order Reports and related subsequent reports to OATS where the timestamp for the related subsequent report occurred prior to the receipt of the order; failed to timely report ROEs to OATS; and transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. **(FINRA Case #2008013561501)**

NEXT Financial Group, Inc. (CRD #46214, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $400,000 and ordered to pay $103,179.84, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it did not have a reasonable system for reviewing its registered representatives' transactions for excessive trading. The findings stated that the firm relied upon its OSJ branch managers to review its registered representatives' transactions and home office compliance

personnel to review its OSJ branch managers' transactions, but the firm failed to utilize exception reports or another system, and the supervisors and compliance personnel only reviewed transactions on weekly paper blotters or electronic blotters. The findings also stated that the monthly account statements and contingent deferred sales charge reports for mutual fund activity were also available for review and could be indicators of excessive trading, however, given the volume of trading certain principals reviewed, and in certain cases, the large number of representatives for which the principal was responsible, it was not reasonable to expect principals to be able to track excessive trading on a weekly sales blotter, let alone through monthly account statements or mutual fund sales charge reports. The findings also included that, due to the lack of a reasonable supervisory system, the firm failed to detect a registered representative's excessive trading, which resulted in about $102,376 in unnecessary sales charges; the firm failed to identify or follow up on other transactions that suggested other registered representatives' excessive trading in additional customer accounts.

FINRA found that the firm did not have a reasonable system for ensuring that it obtained and documented principal review of its registered representatives' transactions, including sales of complicated products such as variable annuities, and the firm should have been particularly attentive to maintaining books and records that established that the transactions had been properly reviewed. FINRA also found that the firm failed to provide reasonable supervision of municipal bond markups and markdowns to ensure that its registered representatives charged its customers reasonable markups and markdowns. In addition, FINRA determined that the firm's branch office examination program was unreasonable because it was not designed to carry out its intended purpose of detecting and preventing violations of, and achieving compliance with, federal, state and FINRA securities regulations, as well as its own policies. The findings also stated that the firm failed to have a reasonable supervisory system to oversee implementation of its heightened supervision policies and procedures for its registered representatives as it failed to comply with the terms of its heightened supervision for its registered representatives regarding client complaints, regulatory actions or internal reviews, therefore it had a deficient implementation of heightened supervision policies and procedures. The findings also included that the firm failed to have a reasonable supervisory control system or to have in place Supervisory Control Procedures as required by FINRA Rule 3012, and it failed to perform adequate 3012 testing or prepare adequate 3012 reports. Moreover, FINRA found that the firm failed to have a reasonable system and procedures in place to review and approve investment advisors' private securities transactions. Furthermore, FINRA determined that the firm filed inaccurate and late Rule 3070 reports relevant to customer complaints, and did not file or amend Form U4 and Uniform Termination Notice for Securities Industry Registration (Form U5) reports in a timely manner. FINRA found that the firm's AML systems and procedures were unreasonable, as the firm failed to establish and implement an AML Compliance Program reasonably designed to achieve compliance with NASD Rule 3011. FINRA also found that although the firm utilized a money movement

report, its supervisors did not detect red flags involving numerous instances of potentially suspicious activities relating to the trading of a company's stock and the transfers of proceeds relating to the trading of a stock, and thus failed to investigate and report these activities in accordance with its own procedures and the requirements of the Bank Secrecy Act and the implementing regulations. In addition, FINRA determined that over 1.3 million shares of a company's stock were traded in customer accounts a registered representative serviced; during a one-week period, the firm's only AML exception report that monitored large money movement flagged the customer's account, but the firm took no action and failed to file any SARs as appropriate. **(FINRA Case #2009016272902)**

OTA LLC (CRD #25816, Purchase, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $38,500 and required to revise its written supervisory procedures regarding limit order display rule, limit order protection rule, market order protection rule, three quote rule, accuracy and integrity of orders entered into order routing and execution systems, trading halts, multiple market participant identifiers (MPIDs), trade reporting and OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it incorrectly identified principal orders as agency orders when it routed the orders through an order routing system to the American Stock Exchange. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning review of order marking accuracy. The findings also stated that the firm failed to report to the FNTRF the correct symbol indicating the capacity in which it executed transactions in reportable securities, the correct symbol indicating whether the transaction was a buy, sell, sell short or cross for transactions in reportable securities, and the correct execution time for one transaction in reportable securities. The findings also included that the firm failed to show the correct entry and/or execution time on brokerage order memoranda, maintain an accurate record of the execution time for proprietary transactions in its books and records, show the terms and conditions of held/not-held on brokerage order memoranda, record the correct capacity on one brokerage order memorandum, and provide an accurate and complete order memorandum for one brokerage order.

FINRA found that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data; the firm incorrectly submitted a cancel report, submitted an incorrect cancel/replace share quantity, failed to append a special handling code, submitted an incorrect order type, incorrectly submitted a route report, failed to submit a cancel/replace report and/or submitted an incorrect route report to OATS. FINRA also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing limit order display rule, limit order protection rule, market order protection rule, three quote rule, accuracy and integrity of orders entered into order routing and execution systems, trading halts, MPIDs, trade reporting and OATS. In addition, FINRA determined that the firm failed to provide documentary evidence that it performed

the supervisory reviews set forth in its written supervisory procedures concerning subject security quotation and display and order marking requirements. **(FINRA Case #2007009053201)**

Peraza Capital and Investment, LLC (CRD #117851, St. Petersburg, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to maintain its minimum net capital requirement while it conducted a securities business, which resulted from the firm's failure to record expenses on its books and records, its failure to accrue commissions payable, its failure to classify securities and cash in a brokerage account the firm maintained as non-allowable assets, its failure to classify a debit balance in the brokerage account, maintained as non-allowable assets, as a liability, and/or its miscalculation of haircuts. The findings stated that the firm placed more than 10 proprietary trades in 2008, which raised its minimum net capital requirement. The findings also stated that the firm did not file, and did not timely file, the requisite notification of its net capital deficiencies, and the firm maintained inaccurate books and records. The findings also included that the firm filed inaccurate FOCUS reports. **(FINRA Case #2008011713901)**

Scottrade, Inc. (CRD #8206, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to determine in all municipal securities transactions whether the underlying credit rating of the issuer of an insured municipal security constituted material information that was required to be disclosed at or before the time of purchase. The findings stated that the firm failed to disclose to customers in connection with municipal securities transactions, all material facts at or before the time of purchase, in that the firm failed to disclose to customers the underlying credit rating of insured municipal bonds at or prior to the time of purchase. **(FINRA Case #2008016050101)**

Seton Securities Group, Inc. (CRD #18044, Union Beach, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $60,000, ordered to pay $875.10, plus interest, in restitution, and to revise its written supervisory procedures regarding anti-intimidation/coordination, SEC Rules 605 and 606, sale transactions (order marking requirements, locate requirements, Rule 203(b)(3)(iii) compliance, NASDAQ Market Center (NMC) short sale reporting) and OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted and held customer market orders, traded for its own account at prices that would have satisfied the customer market orders, and failed to immediately thereafter execute the customer market orders or execute them up to the size and at the same price at which it traded for its own account or at a better price. The findings stated that the firm failed to provide written notification disclosing to its customer its correct remuneration for transactions, and for some of the transactions, also failed to provide written notification

disclosing to its customer its correct capacity in the transactions. The findings also stated that the firm executed short sale transactions in reportable securities, and failed to report them to the OTCRF with the correct symbol indicating whether the transaction was a buy, sell, sell short or cross. The findings also included that the firm executed short and long sale orders, and failed to properly mark them as long or short.

FINRA found that the firm made publicly available a report on its routing of non-directed orders in covered securities that included incorrect information as to the firm's order routing. FINRA also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing anti-intimidation/coordination, SEC Rules 605 and 606, sale transactions (order marking requirements, locate requirements, Rule 203(b)(3)(iii) compliance, NMC short sale reporting) and OATS. In addition, FINRA determined that the firm failed to contemporaneously or partially execute a customer limit order in one NASDAQ security after it traded the subject security for its own market-making account at a price that would have satisfied the customer's limit order. **(FINRA Case #2007011152502)**

Stark, Salter & Smith aka I.E. Investments, Inc. (CRD #25169, Agoura, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct trade time to the RTRS in reports of transactions in municipal securities. The findings stated that the firm failed to report information regarding some of the transactions to the RTRS within 15 minutes of trade time to an RTRS Portal. The findings also stated that the firm failed to show the correct trade time in trade memoranda of transactions in municipal securities. **(FINRA Case #2009020509401)**

Susquehanna Capital Group (CRD #29337, Bala Cynwyd, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Execution or Combined Order/Execution Reports to OATS that contained inaccurate, incomplete or improperly formatted data, so the OATS system was unable to link the Execution Reports to the related trade reports in an NASD trade reporting system. **(FINRA Case #2008012552801)**

TD Ameritrade, Inc. (CRD #7870, Bellevue, Nebraska) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to disclose to customers all material facts concerning municipal securities transactions, in that the firm failed to disclose to certain customers the underlying credit rating of insured municipal bonds at or prior to the time of purchase. **(FINRA Case #2008016064401)**

Tejas Securities Group, Inc. (CRD #36705, Austin, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $30,000 and required to revise its written supervisory procedures regarding order handling, trade reporting, trading halts, information barriers, anti-intimidation, use of multiple MPIDs, best execution, OATS reporting, and preserving books and records. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate capacity codes, inaccurate timestamps and incorrect number of shares. The findings stated that the firm failed to show the correct terms and conditions on brokerage order memoranda, and failed to preserve brokerage order memoranda for a period of not less than three years, the first two in an accessible place. The findings also stated that the firm failed to provide in connection with transactions where the firm acted as principal, written notification to its customer that the price disclosed on the confirmation was the reported trade price of the transaction, and failed to provide written notification disclosing to its customer its correct capacity in transactions. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules addressing adequate written supervisory procedures in order handling, trade reporting, trading halts, information barriers, anti-intimidation, use of MPIDs, best execution, OATS reporting, and preserving books and records. **(FINRA Case #2008014005401)**

thinkorswim, Inc. nka Bellevue Chicago, LLC (CRD #106069, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it allowed its customers to execute certain option strategies in their cash accounts, even though these strategies were prohibited under NASD Rule 2520(f)(2)(m). The findings stated that the firm allowed its customers to engage in strategies that were American-style and/or stock settled, and approximately 10,000 trades took place in approximately 1,000 different cash accounts as a result of these prohibited options strategies. The findings also stated that the firm failed to comply with SEC Rule 17a-3(a)(9) by allowing its records to indicate that approximately 1,000 accounts were cash accounts, when, in fact, they should have been designated as margin accounts. The findings also included that FINRA requested that the firm provide certain emails it held for a period of time and the firm failed to timely respond. **(FINRA Case #2006007376602)**

Track Data Securities Corporation (CRD #103802, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Execution or Combined Order/Execution Reports to OATS that contained inaccurate, incomplete or improperly formatted data, and because of the inaccurate, missing or improperly formatted data, the OATS system was unable to link the Execution Reports to the related trade reports in an NASD trade reporting system. **(FINRA Case #2007009964601)**

UBS Financial Services Inc. (CRD #8174, Weehawken, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $200,000, and was also required to undertake a comprehensive review and testing of its supervisory system and procedures concerning compliance with applicable laws, regulations and rules relating to registration of principals and representatives in its home office; prepare a written report within 120 days detailing its review, findings, testing and recommendations and provide a copy to FINRA; implement additional recommended systems and procedures within 90 days; and certify in writing to FINRA that it has completed its review and established systems and procedures reasonably designed to achieve compliance with applicable laws, regulations and rules addressing registration of principals and representatives.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted employees to function as principals and representatives without the requisite registration. The findings stated that the firm's registration tracking materials identified them as needing qualification examinations, but the firm did not take the necessary steps to have the employees obtain the requisite registrations. The findings also stated that the firm did not establish, maintain and enforce a supervisory system and/or written supervisory procedures reasonably designed to achieve compliance with the rules and regulations applicable to the registration of principals and representatives. The findings also included that the procedures did not clearly assign respective registration responsibilities between the firm's compliance department and the business unit supervisors, which resulted in communication gaps between the departments; the firm's compliance department was not consistent in notifying supervisors about registration issues; firm procedures did not provide reasonable guidance as to the specific steps needed to be taken when an individual was hired or given new responsibilities affecting their registration status; and the procedures did not require that employees be given specific deadlines for testing and other actions, or provide for reasonable follow-up and review to ensure compliance. FINRA found that the firm sometimes permitted representatives to delay taking required exams, contributing to registration violations. **(FINRA Case #2009017976301)**

U.S Financial Investments, Inc. (CRD #120804, New York, New York) submitted an Offer of Settlement in which the firm was censured and fined $25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that after it became aware of deficiencies in its system for maintaining and preserving emails, and after approval of an AWC arising from the firm's failure to maintain an adequate system for retaining emails, the firm's response to correct the deficiencies was inadequate. The findings stated that the firm retained a vendor to provide services with respect to its email system, including, ostensibly, to provide email retention services; however, the firm never took steps, including after it executed the AWC, to test or ascertain whether or not the vendor had implemented a system to store email in a non-erasable, non-rewritable format. The findings also stated that the firm did not store emails in a

non-erasable, non-rewritable format; instead, the firm's vendor merely established a "compliance folder" on the firm's computer network where emails were automatically forwarded, and the vendor apparently maintained "spam" emails the firm received in a separate folder. The findings also included that this system permitted firm employees to delete emails from the "compliance folder."

FINRA found that during the course of a cycle examination, the staff requested that the firm produce certain emails of a firm registered representative and, in response to the request, the firm was able to provide only "spam" emails the firm retained. FINRA also found that the firm discovered its email retention deficiencies only after FINRA staff brought them to the firm's attention. In addition, FINRA determined that the firm intended to employ electronic storage media for its email retention but it failed to provide the required Member's Notice to FINRA pursuant to SEC Rule 17a-4(f)(2)(i); failed to ensure that its third-party vendor provided the undertakings required by SEC Rule 17a-4(f)(3)(vii); and failed to file the required notice, and its third-party vendor did not provide an undertaking until FINRA staff brought the failures to the firm's attention. **(FINRA Case #2009016309701)**

Westrock Advisors, Inc. (CRD #114338, New York, New York) was censured and fined $50,000. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that the firm failed to produce documents in response to an arbitration claimant's discovery request and an NASD arbitration panel's order. The findings stated that in connection with a customer arbitration proceeding, the firm received a discovery request for records involving the trades at issue, including time-stamped order tickets and daily trade blotters. The findings also stated that the firm claimed the order tickets and trade blotters the claimant had requested either did not exist or could not be obtained from third parties, when in fact the firm possessed or had in its control many of the order tickets and blotters, or an adequate substitute. **(FINRA Case #2006005696601)**

William Blair & Company L.L.C. (CRD #1252, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $27,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data, in that the reports were duplicate Route Reports, reports omitted the "Sent to MPID" and included an incorrect destination code, and reports omitted desk information for intra-firm order routing. The findings stated that the firm made available information on covered orders in national market system securities that it received for execution from any person that included incorrect information. The findings also stated that the firm failed to provide written notification disclosing the correct capacity in transactions, that average price details were available upon request, the correct reported trade prices and/or that the firm was a market maker in each such security. **(FINRA Case #2009017016702)**

Wilson-Davis & Co., Inc. (CRD #3777, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to prepare accurate customer confirmations, in that the firm failed to provide written notification disclosing to its customer that transactions were executed at an average price and on one occassion failed to provide written notification disclosing to its customer the correct price. The findings stated that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning trade reporting, short sales, trading halts, books and records, order handling and OATS. **(FINRA Case #2008013899401)**

Individuals Barred or Suspended

Hernan Esteban Arbizu (CRD #4610869, Registered Representative, Fairfield, Connecticut) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Arbizu failed to respond to FINRA requests for information. **(FINRA Case #2008013619001)**

George Abbott Berry (CRD #4319797, Registered Representative, Tuscaloosa, Alabama) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Berry consented to the described sanction and to the entry of findings that he serviced a brokerage account a relative held but did not have power of attorney or discretionary authorization over the account. The findings stated that Berry failed to report his relative's death to his member firm, and after leaving the firm, he removed funds from the account totaling $70,000 by requesting checks be drawn on the account, sent to her listed address, which was the same as Berry's home CRD address, and deposited the checks in a joint checking account he shared with his relative. The findings also stated that when Berry submitted a written withdrawal request to the firm for $10,000, the firm discovered that the signature did not match the signature on file for the customer and froze the brokerage account after Berry acknowledged his relative's death with the firm's customer relations staff. The findings also included that the firm amended Berry's Form U5 to reflect an internal review of his withdrawals and his failure to advise the firm of his relative's death. **(FINRA Case #2009017596901)**

Jaimie M. Blackman (CRD #4129995, Registered Representative, Staten Island, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Blackman consented to the described sanctions and to the entry of findings that certain states began requiring financial advisors to successfully complete a long-term care (LTC) continuing education (CE) course before selling long-term insurance products to retail customers. The findings stated that Blackman

had to successfully complete the LTC CE exam to sell an insurance product to a potential customer and had an individual come to his office and assist him in completing the exam by providing him with the answers. The findings also stated that Blackman knew, or should have known, that the individual was improperly assisting him by giving him answers toward a CE requirement.

The suspension is in effect from January 3, 2011, through February 2, 2011. **(FINRA Case #2009021029703)**

Peter Michael Blanco (CRD #2274508, Registered Representative, Brightwaters, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $100,000, which includes disgorgement of $85,000 in commissions received, and suspended from association with any FINRA member in any capacity for 15 months. The fine must be paid either immediately upon Blanco's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Blanco consented to the described sanctions and to the entry of findings that he recommended and was responsible for numerous unnecessary mutual fund switches in his customers' accounts. The findings stated that Blanco almost exclusively sold Class A mutual fund shares to customers, which caused them to pay sales charges known as front end loads, in the vast majority of transactions. The findings also stated that shortly thereafter Blanco recommended that the customers sell the funds and purchase new Class A funds. The findings also included that Blanco controlled these customers' accounts because he did not contact the customers prior to many of the transactions and they did not reject any of his recommendations.

FINRA found that Blanco made these recommendations without having any reasonable grounds for believing, based on the information the customers provided, and after reasonable inquiry concerning the customers' investment objectives, financial situation and needs, that the recommended transactions were suitable. FINRA also found that Blanco controlled the investment decisions in his customers' accounts, and his recommendations were inconsistent with the customers' financial objectives, situations and needs, and were unsuitable for the customers. In addition, FINRA determined that Blanco's trading caused unnecessary charges in the accounts totaling $102,376.

The suspension is in effect from December 6, 2010, through March 5, 2012. **(FINRA Case #2009016272903)**

Peter Joseph Brandstaetter (CRD #3206399, Registered Representative, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $20,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Brandstaetter consented to the described sanctions and to the entry of findings that he created and distributed illustrations that promoted an options trading strategy to members of the public that contained numerous

false, exaggerated, unwarranted or misleading claims and statements. The findings stated that at the time that Brandstaetter sent the illustrations to one of the customers, she had not completed an options trading agreement with Brandstaetter's member firm and she had not been furnished with an options disclosure document prior to (or contemporaneous with) the receipt of the illustrations. The findings also stated that Brandstaetter did not seek or receive approval of the documents from his firm's options principal prior to the dissemination of the materials. The findings also included that Brandstaetter exercised discretion in a customer's account without her written permission or the firm's approval, although he was aware that his firm's written supervisory procedures prohibit discretionary trading within customer accounts.

The suspension was in effect from December 20, 2010, through January 3, 2011. **(FINRA Case #2008014880601)**

Stuart Gregory Burchard (CRD #2264551, Registered Principal, San Francisco, California) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Burchard consented to the described sanction and to the entry of findings that a member firm, acting through Burchard, failed to prepare accurate general ledgers and trial balances, failed to prepare accurate computations of net capital under the aggregated indebtedness standard while conducting a securities business, failed to maintain or meet its minimum net capital requirement, failed to notify FINRA when its net capital declined below the minimum required under SEC Rule 15c3-1, and failed to prepare and file FOCUS Reports Part IIA for several calendar quarters. The findings stated that the firm, acting through Burchard, failed to comply with the terms of its membership agreement when it acted as a dealer after executing more than 10 proprietary trades in its account during a calendar year, thereby increasing its minimum net capital requirement from $5,000 to $100,000, and failed to file an application for approval of a material change in its business operations as originally provided in its membership agreement. The findings also stated that the firm, acting through, Burchard, failed to report customer complaints, which were discloseable events, within 10 business days and statistical and summary information of customer complaints the firm received on a quarterly basis; failed to timely amend Forms U4 to disclose settlements; and failed to timely report settlements, arbitration awards and a default judgment that were required to be disclosed. The findings also included that the firm, acting through Burchard, failed to develop, establish and implement an adequate AML compliance program; failed to conduct and/or document adequate independent testing of its AML compliance program and procedures; failed to establish procedures to ensure the designation of an AML Compliance Officer to NASD; failed to notify NASD of any changes in contact information for its AML Compliance Officer in a reasonable amount of time and failed to implement and adequate AML training program; failed to establish and implement an adequate Customer Identification Program; failed to evidence that a due diligence review was performed to review the identities or beneficial owners of accounts of foreign financial institutions; failed to establish adequate procedures designed to monitor,

detect and investigate suspicious activity despite the presence of red flags noted in the firm's procedures; failed to prepare and maintain exception reports produced to review for unusual activity in accounts; failed to evidence due diligence in opening accounts of foreign financial institutions; failed to monitor and respond to requests for information from FinCEN; and failed to establish and implement policies, procedures and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act, including failure to implement policies and procedures designed to detect and report suspicious activity and to verify the identity of customers.

FINRA found that Burchard failed to reasonably supervise the activities of a registered representative and registered principal to ensure that she performed the supervisory responsibilities Burchard delegated to her. **(FINRA Case #2008011656401)**

Leonard Raymond Connell (CRD #1495240, Registered Representative, Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Connell's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Connell consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing prompt written notice to his member firm. The findings stated that Connell sold equity-indexed annuities (EIAs) to investors, which included customers of his firm, through insurance companies, with investments totaling approximately $3,490,000, and Connell received commissions of approximately $91,030.00 from these sales. The findings also stated that during the relevant period, the firm prohibited its representatives from selling EIAs as an outside business activity.

The suspension is in effect from December 20, 2010, through March 19, 2011. **(FINRA Case #2009020402601)**

Robert Thomas Conway (CRD #2329507, Registered Representative, East Islip, New York) and Kakit Ng (CRD #2677132, Registered Representative, Bronx, New York). Conway was fined $100,000 and suspended from association with any FINRA member in any capacity for 18 months. Ng was fined $20,000 and suspended from association with any FINRA member in any capacity for nine months. The NAC imposed the sanctions following an appeal of an OHO decision. The sanctions were based on findings that Conway and Ng failed to observe high standards of commercial honor and just and equitable principles of trade by executing trades involving mutual fund shares after the close of the market, and as if the instructions had been received prior to the time mutual fund shares were valued. The findings stated that Conway and Ng actively assisted customers who were known to be market timers to trade, or attempt to trade, mutual funds in a deceitful manner and contrary to mutual fund market timing provisions and prohibitions. The findings also

stated that Conway, with Ng's assistance, opened multiple accounts in different names for the same customers and permitted hedge funds to use these multiple accounts to evade market-timing restrictions mutual fund companies placed upon them.

This decision has been appealed to the Securities and Exchange Commission, and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #E102003025201)**

Winston John Cutter Jr. (CRD #4083287, Registered Representative, Auburn, California) submitted an Offer of Settlement in which he was fined $12,500 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Cutter's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Cutter consented to the described sanctions and to the entry of findings that he borrowed a total of $55,000 from his customer in the absence of firm procedures allowing such borrowing; Cutter has repaid only $6,000. The findings also stated that Cutter made false statements to his firm concerning material facts relating to his borrowing or receiving of any money from the firm's customer, particularly in the context of the firm's attempts to discharge its supervisory functions. The findings also included that Cutter failed to provide information FINRA requested.

The suspension is in effect from December 6, 2010, through December 5, 2012. **(FINRA Case #2009017532101)**

David William Dube (CRD #3041983, Registered Principal, St. Petersburg, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Dube consented to the described sanction and to the entry of findings that while serving as president and AML compliance officer for his member firm, he failed to implement an AML Compliance Program reasonably designed to achieve and monitor compliance with the Bank Secrecy Act, which resulted in suspicious activity occurring at the firm without being detected and reported. The findings stated that Dube failed to implement his firm's AML procedures, which required him to monitor customers' accounts and transactions for suspicious activity on a daily basis, to conduct investigations of suspicious activity upon detection of red flags, and to file a SAR-SF. The findings also stated that Dube served as the registered representative of record for the accounts in which red flags existed, and he did not identify any accounts as having suspicious activity. The findings also included that Dube failed to identify any red flags, did not conduct due diligence with respect to customers' account activities and failed to file any SAR-SFs.

FINRA found that Dube exercised discretion in customers' non-discretionary accounts without written authorization, and in each instance, he exercised discretion in the customers' accounts as directed by an individual who was not an account owner. FINRA also found that Dube recommended, sold and approved the sale of approximately $830,000 of an offering to customers without conducting adequate due diligence, without having a reasonable basis for recommending the offering as a suitable product, and without enforcing the firm's written supervisory procedures related to the sale of the offering. **(FINRA Case #2008011713801)**

Chad R. Duncan (CRD #4119031, Registered Principal, Hermitage, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Duncan consented to the described sanctions and to the entry of findings that without permission or authority, he used $100,000 drawn from an elderly person's bank account to pay his personal credit card expenses, which were related to costs associated with the construction of his home. The findings stated that when the executor of the deceased person's estate became concerned about the withdrawals totaling $100,000, Duncan created fictitious cashier's checks totaling $100,000 and payable to charities, falsely representing that the checks represented evidence of the payments made by the deceased and the beneficiaries of the payments. The findings also stated that the withdrawals were earlier used to purchase cashier's checks payable to an international commercial bank to pay down Duncan's credit card expenses. The findings also included that a bank compensated the customer for the wrongfully taken funds, and Duncan has reimbursed the bank approximately $91,484.75 and continues to make monthly payments to cover the amounts the bank paid to the customer. **(FINRA Case #2009017755101)**

Edmond Sloan Duvall (CRD #2102165, Registered Representative, Fayetteville, Arkansas) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 12 months. In light of Duvall's financial status, no monetary sanction was imposed. Without admitting or denying the findings, Duvall consented to the described sanctions and to the entry of findings that over a period of 10 years or longer, in face-to-face meetings with customers, he had the customers supply account forms signed in blank, to support transactions the customers authorized. The findings stated that after obtaining information needed to complete the transactions, Duvall completed the forms and submitted them to his member firm for processing; but in some cases, he retained the blank, signed forms. The findings also stated that Duvall's firm prohibited staff from obtaining or retaining documents the customers pre-signed, and Duvall was aware of the prohibition. The findings also included that Duvall caused his firm to violate NASD Rule 3110 in that he caused the firm's books and records relating to customer accounts to be inaccurate.

The suspension is in effect from November 15, 2010, through November 14, 2011. **(FINRA Case #2008015702201)**

John Henry Fernandez (CRD #3124331, Registered Representative, Los Angeles, California) submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined $5,000 and suspended from association with any FINRA member in any capacity for 45 days. The fine must be paid either immediately upon Fernandez' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Fernandez consented to the described sanctions and to the entry of findings that he borrowed a total of $30,000 from an elderly customer contrary to his member firm's policy, which prohibited borrowing from customers who are not immediate family members. The findings stated that Fernandez failed to disclose the loans to his member firm and did not repay them until the firm discovered the loans after the customer complained. The findings also stated that Fernandez then repaid the entire loan with $2,105 in interest.

The suspension was in effect from November 15, 2010, through December 29, 2010. **(FINRA Case #2009019405801)**

Sharon Elsene Givens (CRD #3208845, Associated Person, Frankfort, Kentucky) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Givens, as her member firm's bookkeeper, had access to the firm's checking account and forged the firm's treasurer's signature on checks totaling approximately $61,016.08 written against the firm's checking account. The findings stated that Givens committed conversion by making the checks payable to herself, cashing the checks and using the funds for purposes other than the firm's benefit. The findings also stated that because Givens reconciled the firm's checking account, she was able to conceal the conversion of funds from the firm. The findings also included that in a letter to FINRA, Givens admitted that she utilized the treasurer's name without authorization and took the firm's funds for her personal use. **(FINRA Case #2008014705101)**

Oscar Gerardo Grados (CRD #4600863, Registered Representative, Tacoma, Washington) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Grados made unsuitable recommendations to customers that they obtain home equity loans, deposit the proceeds in their securities accounts at his member firm and use the proceeds to purchase mutual funds. The findings stated that Grados arranged for a portion of each customer's mutual fund investment to be liquidated each month in an amount equal to the customer's home equity loan payment, and transferred from each customer's account to a bank account that the customer controlled, from which the customer would make monthly loan payments. The findings also stated that Grados recommended the transactions knowing, as testified in an on-the-record testimony, that none of the customers were financially capable of purchasing the recommended mutual funds without resorting to a home equity loan, and he also knew that the customers would rely substantially upon the mutual fund returns to make the required home equity loan payments, thereby placing their homes at risk. **(FINRA Case #2007011315901)**

Bruce Jude Guarino (CRD #1096719, Registered Principal, Huntington, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000, ordered to pay $41,873.47, plus interest, in restitution to customers, and suspended from association with any FINRA member in any supervisory capacity for 30 days. The fine must be paid either immediately upon Guarino's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Guarino shall provide proof of payment or reasonable and documented efforts to effect the restitution to FINRA no later than 120 days after acceptance of the AWC. Without admitting or denying the findings, Guarino consented to the described sanctions and to the entry of findings that he failed to adequately review collateralized mortgage obligation (CMO) purchases by brokers under his supervision at his member firm's branch offices, or otherwise failed to have taken reasonable steps to ensure that the brokers were abiding by the terms identified in the disclosure document sent to customers, which stated that transaction costs for the purchase of CMO products would not exceed 3.25 percent. The findings stated that Guarino failed to detect that in many CMO transactions, customers were being charged more than the 3.25 percent, resulting in $41,873.47 in excessive transaction costs charged to the customers. The findings also stated that Guarino received two sets of blotters, one encompassing all trades, and one just covering CMO transactions, and he reviewed both.

The suspension was in effect from December 6, 2010, through January 4, 2011. **(FINRA Case #2007011544601)**

Antonio Herrero-Rovira (CRD #1878587, Registered Principal, Rio Piedras, Puerto Rico) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Herrero-Rovira converted approximately $203,000 in customer funds by forging customers' signatures on Letters of Authorization (LOAs) and firm checks issued pursuant to the LOAs, and depositing the checks into his personal bank account or others' account without the customers' knowledge or authorization. The findings also stated that Herrero-Rovira converted an additional $16,000 from a customer by causing a check payable to the customer in that amount to be withdrawn from the customer's account without the customer's knowledge or authorization, and forging the customer's check endorsement. The findings also stated that Herrero-Rovira failed to respond to FINRA requests for information. **(FINRA Case #2008013833601)**

Herbert Tyrone Hunt (CRD #1632226, Registered Supervisor, Lyndhurst, Ohio) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Hunt consented to the described sanction and to the entry of findings that he effected discretionary transactions in a public customer's accounts without the customer's prior written authorization and his member firm's prior written acceptance of the accounts as discretionary. The findings stated that Hunt failed to appear for a FINRA on-the-record interview. **(FINRA Case #2008015021001)**

Joe Michael Kirk (CRD #2985434, Registered Representative, Sylmar, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for four months. Without admitting or denying the findings, Kirk consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing prompt written notice to his member firm. The findings stated that Kirk had a contract with an insurance company to sell EIAs, which was approved, but the firm subsequently informed Kirk in writing that the approval to sell EIAs through the insurance company had been cancelled. The findings also stated that despite receiving this notice, Kirk sold EIAs through the insurance company without providing prompt written notice to his firm, and received commissions of approximately $14,500. The findings also included that Kirk incorrectly answered on his firm's required compliance questionnaire that he was not currently engaged in any outside business activities, when at the time, he maintained his contractual relationship with the same insurance company through which he sold the EIAs.

The suspension is in effect from December 6, 2010, through April 5, 2011. **(FINRA Case #2009017797201)**

Christopher Krolick (CRD #2785320, Registered Principal, Long Beach, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Krolick consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information and testimony. **(FINRA Case #2010024358401)**

Leslie David Kruse (CRD #4541523, Registered Representative, Sioux Falls, South Dakota) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Kruse's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kruse consented to the described sanctions and to the entry of findings that he entered into a settlement agreement regarding a customer complaint without authorization from, and without notifying, his member firm. The findings stated that Kruse sold a customer a variable life insurance policy which required payment of monthly premiums by automatic withdrawal from the customer's bank account. The findings also stated that at a later date, the customer complained to Kruse that he had not been aware of the monthly withdrawals from his bank account and about the performance of the policy. The findings also included that the customer threatened to direct his complaint to the state insurance commissioner if Kruse did not resolve the situation to his satisfaction; Kruse then paid the customer $4,000 to settle the complaint.

The suspension was in effect from December 6, 2010, through December 17, 2010. **(FINRA Case #2009020491201)**

William James McCluskey (CRD #1745114, Registered Principal, Long Beach, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $15,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, McCluskey consented to the described sanctions and to the entry of findings that he acted in a principal capacity at his member firm without being properly registered as a principal. The findings stated that while a large percentage of McCluskey's time was devoted to business development, he was actively engaged in the management of his firm's investment banking and securities business. The findings also stated that during that time period, McCluskey was the firm's President and Chief Executive Officer, was responsible for all of the firm's securities and investment banking operations, supervised various registered persons, including the firm's Chief Financial Officer, a branch manager and managing directors, and was involved in the daily supervision of the firm's investment banking business.

The suspension was in effect from December 20, 2010, through January 3, 2011. **(FINRA Case #2009016262301)**

Vincent Patrick McCrudden (CRD #1762690, Registered Principal, Dix Hills, New York) was fined $50,000 and suspended from association with any FINRA member in any capacity for one year. The NAC imposed the sanctions following McCrudden's appeal of an OHO decision. The sanctions were based on findings that McCrudden induced his firm to file a false Form U5. The NAC found that McCrudden used a variety of tactics, including harassment and a monetary payment, to coerce his firm to file a Form U5, which mischaracterized his firing as a voluntary termination.

The suspension is in effect from December 20, 2010, through December 19, 2011. **(FINRA Case #2007008358101)**

Vincent Michael McGuire (CRD #1026265, Registered Representative, Sandy, Utah) submitted an Offer of Settlement in which he was fined $15,000 and suspended from association with any FINRA member in any capacity for 45 days. The fine must be paid either immediately upon McGuire's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, McGuire consented to the described sanctions and to the entry of findings that he and his member firm sold more than 27 million unregistered shares of a thinly traded penny stock into the public markets on customers' behalf, resulting in proceeds of approximately $46,000 to the customers. The findings stated that McGuire acted as the registered representative for all of these sales. The findings also stated that McGuire and the firm failed to undertake adequate efforts to ascertain the information necessary to determine whether the customers' unregistered shares could be sold in compliance with Section 5 of the Securities Act, and McGuire failed to determine how their customers came to obtain the stock or whether there was an applicable exemption to registration.

The suspension is in effect from December 6, 2010, through January 19, 2011. **(FINRA Case #2007008239001)**

Lyndall Conway Medearis Jr. (CRD #2394572, Registered Principal, Bellaire, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000 and suspended from association with any FINRA member in any capacity for 90 days. The fine must be paid either immediately upon Medearis' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Medearis consented to the described sanctions and to the entry of findings that he became an additional credit card holder on a customer's credit card accounts which were revolving lines of credit. The findings stated that Medearis made charges to the cards totaling approximately $134,000, effectively borrowing this amount through the credit card transactions, and subsequently made payments to cover the charges. The findings also stated that Medearis' member firm's written procedures prohibited registered representatives from borrowing money from or loaning money to customers unless the customer was a member of the registered representative's immediate family and the registered representative had requested and received prior written permission from the firm. The findings also included that Medearis borrowed an additional $132,000 from the customer in separate transactions, and Medearis never informed his firm. FINRA found that Medearis loaned $6,420.33 to a customer who was a member of his immediate family but failed to obtain the firm's prior written permission before entering into the loan arrangement with the customer.

The suspension is in effect from December 6, 2010, through March 5, 2011. **(FINRA Case #2008014825001)**

Chanse Keith Menendez Sr. (CRD #2448467, Registered Representative, Hauppauge, New York) was barred from association with any FINRA member in any capacity and ordered to pay $44,930.03 in restitution, plus interest, to customers. The sanctions were based on findings that Menendez engaged in excessive and unsuitable trading in customers' accounts when he did not have reasonable basis for believing that the volume of transactions he recommended and effected was suitable for the customers in light of the information he knew about the customers' financial circumstances, investment objectives and needs. The finding stated that Menendez purchased and sold securities for customers' accounts without regard for the customers' investment interest, for the purpose of generating commissions; therefore, his misconduct amounted to churning. The findings also stated that Menendez mischaracterized solicited trades as "unsolicited" in customers' accounts, and caused his member firm's books and records to be inaccurate. The findings also included that Menendez failed to appear for FINRA on-the-record interviews. **(FINRA Case #2007007400505)**

Claude Steven Mosley (CRD #1161832, Registered Representative, Myrtle Beach, South Carolina) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $15,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Mosley's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Mosley consented to the described sanctions and to the entry of findings that he sold variable annuities issued by an annuity and life insurance company to a number of clients while at a member firm, and upon joining another member firm, he was appointed to sell the same annuity and life insurance products, and sought to have the variable annuities that he had sold while at the previous firm transferred to his new firm. The findings stated that the annuity and the life insurance company did not permit the block transfer but some of Mosley's customers submitted change-of-dealer forms to the company. The findings also stated that Mosley contacted the company and, without specific customer authorization, reallocated the sub-accounts for numerous variable annuities belonging to many individuals including customers of the second firm that he had sold while at the previous firm. The findings also included that Mosley had not obtained written authorization for the use of discretionary authority from the customers at his second firm, and the remaining customers whose sub-accounts were reallocated were not customers of his second firm but had remained with Mosley's first firm. FINRA found that Mosley had not sought his second firm's prior approval to engage in these transactions for non-customers.

The suspension is in effect from December 6, 2010, through April 5, 2011. **(FINRA Case #2009019272201)**

Michael Anthony Nemcik (CRD #5405918, Registered Representative, Tampa, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Nemcik failed to respond to FINRA requests for information. The findings stated that Nemcik executed an unauthorized transaction in a customer's account even though the customer had not granted him discretionary trading authority and did not authorize the purchase. **(FINRA Case #2009017374501)**

Novin Ghaffari Nikou (CRD #4851765, Registered Representative, Prior Lake, Minnesota) submitted an Offer of Settlement in which she was suspended from association with any FINRA member in any capacity for 30 days. In light of Nikou's financial status, no monetary sanctions were imposed. Without admitting or denying the allegations, Nikou consented to the described sanction and to the entry of findings that she falsified a customer's signature and initials on forms her member firm used related to the purchase of a fixed annuity. The findings stated that Nikou violated the firm's policy that prohibits its registered representatives from signing customer names or initials, even if done with the client's knowledge and/or consent.

The suspension was in effect from December 6, 2010, through January 4, 2011. **(FINRA Case #2008015095101)**

Lynda Corean Paul (CRD #2711775, Registered Representative, Gurnee, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which she was fined $5,000 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Paul consented to the described sanctions and to the entry of findings that she sold fixed annuities on an insurance company's behalf totaling approximately $1 million to members of the public and received approximately $44,000 in commissions. The findings stated that Paul failed to give prompt written notice to her member firm that she was engaging in outside business activities.

The suspension is in effect from December 6, 2010, through February 5, 2011. **(FINRA Case #2009017978901)**

Robert Charles Pollock (CRD #4490116, Registered Representative, Palm Harbor, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $94,650, which includes disgorgement of $34,650 in commissions, suspended from association with any FINRA member in any capacity for one year, and ordered to pay $76,922, plus interest, in restitution to customers. The fine and restitution amounts must be paid either immediately upon Pollock's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Pollock consented to the described sanctions and to the entry of findings that he sold to customers installment plan contracts offered by a non-profit corporation that represented itself to the public as a charitable organization, but Pollock lacked a reasonable basis to recommend the purchase of the contracts to his customers given his failure to perform a reasonable investigation concerning the product. The findings stated that while Pollock reviewed information on the non-profit corporation's website and spoke to its personnel, he took their representations at face value and failed to independently verify those representations. The findings also stated that Pollock did not contact the Internal Revenue Service (IRS) to confirm the tax-exempt status or the availability of a tax deduction to investors, and did not seek to understand how the non-profit corporation arrived at its figures regarding tax benefits; Pollock also misrepresented to his customers that they could take charitable tax deductions in connection with their respective investments, which was not true. The findings also included that in connection with the solicitation of these installment plan contracts, Pollock provided his customers with illustrations and other sales materials that contained misleading and incomplete information. FINRA found that Pollock failed to provide his member firm with written notice of his participation in the above-referenced transactions or receive its written approval to participate in those transactions, and he did not present the flow chart and 1099 Statement for review to a registered principal of his firm prior to using them in connection with the sales of the installment plan contracts.

The suspension is in effect from December 6, 2010, through December 5, 2011. **(FINRA Case #2009019042301)**

Andrew C. Powell (CRD #4826369, Registered Representative, Coral Springs, Florida) submitted an Offer of Settlement in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for six months. Without admitting or denying the allegations, Powell consented to the described sanctions and to the entry of findings that he failed to timely respond to FINRA requests for information.

The suspension is in effect from December 6, 2010, through June 5, 2011. **(FINRA Case #2009016221401)**

Stephen Lee Recker (CRD #2505481, Registered Representative, Greenville, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Recker's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Recker consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4 and on a compliance questionnaire for his member firm.

The suspension is in effect from December 6, 2010, through March 5, 2011. **(FINRA Case #2009017801501)**

David William Reimers (CRD #3067635, Registered Principal, Folsom, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Reimers' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Reimers consented to the described sanctions and to the entry of findings that he borrowed approximately $75,768 from one of his customers at his member firm despite the fact that the firm's procedures prohibited representatives from borrowing money from a customer, unless the customer was a family member and written notice was provided to the firm. The findings stated that the customer was not a family member and Reimers did not inform the firm of the loan, which was repaid in full, together with interest totaling $11,259. The findings also stated that Reimers falsely represented on his firm's annual compliance questionnaire that he had not borrowed money from a customer.

The suspension is in effect from December 20, 2010, through March 19, 2011. **(FINRA Case #2010022393501)**

Joseph Ricupero (CRD #1457028, Registered Principal, Stewart Manor, New York) was barred from association with any FINRA member in any capacity. The SEC sustained the sanction following appeal of a NAC decision. The sanction was based on findings that Ricupero failed to respond to FINRA requests for information. The findings also stated that

Ricupero failed to file FOCUS reports, an annual audit report, and the required application with FINRA for approval of the firm's transfer of customer assets to a New York Stock Exchange (NYSE) member firm.

This decision has been appealed to the United States Court of Appeals for the Second Circuit. Ricupero is not currently associated with a FINRA firm, and the SEC's order has not been stayed. **(FINRA Case #2006004995301)**

Niels F. Rojas (CRD #5558557, Registered Representative, Tulsa, Oklahoma) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Rojas failed to respond to FINRA requests for information and documents. The findings stated that Rojas failed to disclose material information on his Form U4. **(FINRA Case #2009016614601)**

Joseph Drew Sheeran (CRD #1631764, Registered Principal, Macomb, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Sheeran's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Sheeran consented to the described sanctions and to the entry of findings that he exercised discretion in customers' accounts; the customers had verbally conferred the exercise of discretion but Sheeran did not obtain their written authorization or his member firm's written acceptance of the accounts as discretionary. The findings stated that Sheeran's firm did not allow discretionary accounts.

The suspension was in effect from November 15, 2010, through December 27, 2010. **(FINRA Case #2009016494901)**

Larrye Alfie Smith (CRD #1131839, Registered Principal, Miami, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined $7,500 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Smith's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Smith consented to the described sanctions and to the entry of findings that he engaged in business activities for compensation outside the scope of his business relationship with his member firm without providing the firm with prompt written notice. The findings stated that Smith sold EIAs valued at $148,850 without notifying the firm. The findings also stated that Smith used a business card the firm had not approved, distributed a seminar invitation the firm had not approved and conducted a seminar of which the firm was unaware.

The suspension is in effect from December 6, 2010, through June 5, 2011. **(FINRA Case #2009020119101)**

Paul Richard Soto (CRD #4254555, Registered Representative, Folsom, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Soto's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Soto consented to the described sanctions and to the entry of findings that he exercised discretion in customer accounts without submitting the customers' written authorization to his member firm and without his firm accepting those accounts as discretionary. The findings stated that the transactions consisted of sub-account reallocations in variable annuities the customers owned; Soto received no commissions or other compensations for effecting the transactions.

The suspension was in effect from December 6, 2010, through December 17, 2010. **(FINRA Case #2008016185901)**

Jenny Quyen Ta (CRD #2538602, Registered Principal, Westminster, California) submitted a Letter of Acceptance, Waiver and Consent in which she was fined $10,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Ta's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Ta consented to the described sanctions and to the entry of findings that she engaged in outside business activities and failed to give prompt written notice to her member firm. The findings stated that Ta failed to disclose that she had financial interests and/or discretionary authority in multiple brokerage accounts at other broker-dealers and failed to give her firm prompt written notice of these accounts; on account applications, she falsely indicated that she was not affiliated with a securities firm. The findings also stated that on a firm securities annual attestation form, Ta falsely stated that she did not have a personal securities account. The findings also included that Ta created websites which included representations about her career accomplishments but never obtained a registered firm principal's approval for those sites.

FINRA found that among other things, one of the websites stated that Ta founded a full-service broker-dealer that was a FINRA member when, in fact, it was not; although that entity had a new member application pending with FINRA, it was not an actual broker-dealer and never became a FINRA member. FINRA also found that Ta failed to inform a registered firm principal that she had a Twitter account which, on occasion, she used to tout a particular stock. In addition, FINRA determined that Ta's "tweets" were unbalanced, overwhelmingly positive and frequently predicted an imminent price rise, and Ta did not disclose that she and her family members held a substantial position in the stock.

The suspension is in effect from December 6, 2010, through December 5, 2011. **(FINRA Case #2010021538701)**

Kirk Alan Tessendorf (CRD #4962944, Registered Representative, Union Grove, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for nine months. The fine must be paid either immediately upon Tessendorf's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Tessendorf consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4. The findings stated that during firm inclusive producer interviews and on compliance surveys, Tessendorf falsely replied to questions when specifically asked whether he was subject to bankruptcies, liens, creditors, etc., despite acknowledging on the surveys that he had an obligation to keep his Form U4 current with regard to judgments and liens.

The suspension is in effect from November 15, 2010, through August 14, 2011. **(FINRA Case #2009018272001)**

Daniel J. Trolaro (CRD #4260690, Registered Representative, Oakland, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Trolaro consented to the described sanction and to the entry of findings that he misappropriated approximately $1,533,000 from customers and, instead of reinvesting the funds on the customers' behalf, he deposited the checks into his personal bank account and used the funds for his personal benefit. The findings stated that Trolaro persuaded customers to make personal loans to him, totaling $310,000 contrary to his member firm's written procedures that specifically prohibited registered representatives from borrowing money from customers. **(FINRA Case #2010021844401)**

Mahmood Hasan Usmani, (CRD #5727193, Associated Person, Bartlett, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity and ordered to disgorge $24,286.67 in unlawful profits. Without admitting or denying the findings, Usmani consented to the described sanctions and to the entry of findings that by purchasing an issuer's stock while in knowing possession of material, non-public information, directly or indirectly, by use of means or instrumentalities of interstate commerce, he intentionally or recklessly employed a device, scheme or artifice to defraud or engaged in an act, practice or course of business which operated, or would operate, as a fraud or deceit in connection with the purchase or sale of a security. The findings stated that prior to the public announcement of the tender offer for a security and after a substantial step or steps to commence the tender offer had been taken, Usmani purchased the issuer's securities while in possession of material information relating to the offer, which he knew or had reason to know was non-public and had been acquired directly or indirectly from a person acting on the offering person's behalf; the issuer of the securities sought or to be sought by the tender offer; or an officer, director, partner, employee, or other person acting on the offering person's or

such an issuer's behalf. The findings also stated that Usmani failed to notify his member firm, in writing, of the existence of his personal securities accounts, in which he had a financial interest and maintained at another FINRA member firm, and failed to notify the other member firm, in writing, of his association with his member firm. The findings also included that Usmani failed to respond to FINRA requests for information and documents. **(FINRA Case #2010022476001)**

Stephen Richard Ventura (CRD #4954984, Registered Representative, Plymouth, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Ventura's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Ventura consented to the described sanctions and to the entry of findings that he acquired customers' signatures by having them sign a paper life insurance application, and that after receiving the paper executed life insurance applications, he placed the applications onto an electronic pad and physically traced the customers' signatures from the paper life insurance policies to the electronic pad in order to process their life insurance policies, without any of the affected customers' knowledge or consent .

The suspension is in effect from December 6, 2010, through June 5, 2011. **(FINRA Case #2009018522001)**

Robert Lyle Walker (CRD #1473254, Registered Representative, Webster City, Iowa) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Walker consented to the described sanctions and to the entry of findings that he executed unauthorized transactions in a customer account by accepting trading instructions from a person whom he incorrectly believed had a power of attorney to control the customer's account. The findings stated that this person instructed Walker to place trades in the customer's account which consisted of redemptions of $260,000 of mutual funds in order to have funds available for withdrawal, and Walker placed these trades without contacting the customer to receive any authorization or consent for these trades.

The suspension is in effect from December 6, 2010, through February 5, 2011. **(FINRA Case #2008015551201)**

Andrew Thomas Wrigley (CRD #4820238, Registered Representative, Fair Haven, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Wrigley consented to the described sanctions and to the entry of findings that certain states implemented an LTC CE requirement that obligated financial advisors to complete an LTC CE course and exam before selling LTC

insurance products. The findings stated that in order to assist financial advisors with the LTC CE requirement, Wrigley provided them with vouchers to take CE exams for free through a company. The findings also stated that Wrigley requested, received and distributed an answer key for one of the state exams to an outside financial advisor, and asked another member firm representative to request, receive and distribute an answer key for the state exam to an outside financial advisor.

The suspension was in effect from December 6, 2010, through January 5, 2011. **(FINRA Case #2009021029614)**

Marilyn Louise Yamanaka (CRD #2650202, Registered Representative, Clovis, California) submitted a Letter of Acceptance, Waiver and Consent in which she was fined $5,000 and suspended from association with any FINRA member in any capacity for eight months. In light of Yamanaka's financial status, a $5,000 fine was imposed. The fine must be paid either immediately upon Yamanaka's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Yamanaka consented to the described sanctions and to the entry of findings that she participated in the sales of Universal Lease Programs (ULPs) totaling $408,273.39 to members of the public without providing her member firm with written notice about the sales, and failed to obtain her firm's written approval. The findings stated that Yamanaka received approximately $43,760 in commissions from her sales of the ULPs. The findings also stated that Yamanaka submitted documentation related to the ULPs to her firm and was told that the ULPs were not approved for sale. The findings also included that Yamanaka signed declarations in which she confirmed she had discussed the firm's regulatory requirements with her supervisory principal; in these declarations, Yamanaka stated she had not offered or sold securities except those her firm offered and approved, had not engaged in any outside business activity which involved private securities transactions or private placements of securities, unless the firm approved them in advance, and informed her firm of all outside business activities for which she directly or indirectly received compensation. FINRA found that all of these statements were false.

The suspension is in effect from November 15, 2010, through July 14, 2011. **(FINRA Case #2009016709018)**

Robert John Zamecki (CRD #475757, Registered Principal, Carmel, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $12,500 and suspended from association with any FINRA member in any principal capacity for 30 business days. Without admitting or denying the findings, Zamecki consented to the described sanctions and to the entry of findings that he was the registered principal at his member firm responsible for reviewing and approving the firm's registered representatives' private securities transactions and outside business activities. The findings stated that Zamecki failed to supervise a registered representative's private securities transactions. The

findings also stated that the registered representative disclosed his outside business sales of secured real estate notes to the firm and discussed them with Zamecki, at which time the representative stated that attorneys for the note issuer had determined that the notes were not securities; in reality, the notes were securities. The findings also included that Zamecki allowed the registered representative to continue selling the notes without inquiring further into the matter and thereby failed to enforce the firm's written supervisory procedures.

FINRA found that the representative made numerous sales of the notes to various investors, and Zamecki did not review, approve or otherwise supervise these sales. FINRA also found that the representative completed an Outside Business Questionnaire in which he disclosed his sales of the notes; after reviewing the form, Zamecki questioned the representative in detail about the nature of the notes, determined that the notes could be securities and prohibited the representative from engaging in any further sales of the notes.

The suspension is in effect from January 3, 2011, through February 14, 2011. **(FINRA Case #2009016987401)**

Connie Hong Tao Zhao (CRD #4592497, Registered Representative, Fresh Meadows, New York) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Zhao consented to the described sanction and to the entry of findings that she sold life insurance policies through her firm's life insurance affiliate. The findings stated that Zhao converted the funds of one of her insurance customers, without the customer's authorization or knowledge, by changing the frequency of payments on the policy from annual to quarterly, making a quarterly payment, and converting the remainder of the customer's funds, which had been paid in full as an annual premium amount. The findings also stated that the policy lapsed for nonpayment, and after the customer's relative complained to Zhao's firm, she had the policy reinstated by completing and sending a reinstatement application along with a $5,000 payment towards the premium; the customer was unaware that Zhao had reinstated the policy and did not sign the documents necessary to have the policy reinstated. The findings also included that Zhao improperly used an address that she maintained as the address of record for the customer's insurance policy, as well as, for other insurance policies, contrary to her firm's policy. **(FINRA Case #2009017116301)**

Decision Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of November 30, 2010. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future issues of *FINRA Disciplinary and Other Actions*.

Joseph Anthony Padilla (CRD #2203872, Registered Principal, San Marcos, California) and Andrea Marie Ritchie fka Andrea Marie Bruno (CRD #5060501, Registered Principal, San Marcos, California) were each suspended from association with any FINRA member in any capacity for six months. Padilla was fined $132,701 and Ritchie was fined $12,891, which includes disgorgement of commissions and an additional $10,000 fine for both respondents. The sanctions were based on findings that Padilla and Ritchie engaged in the unlawful sale of unregistered securities and ignored warning signs—namely, consultants' pattern of deposits of large blocks of little-known, thinly traded Pink Sheet securities transferred to other consultants soon after being deposited with Padilla and Ritchie's firms—that should have caused them to question whether the sales were part of an illegal distribution. The findings stated that Padilla and Ritchie impermissibly relied upon others, including their firms' compliance departments, transfer agents and clearing firms, to prevent any sales that might be unlawful.

This decision has been appealed to the NAC and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #2006005786501)**

Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Thaddeus Newel (CRD #2060528, Registered Representative, Farmington Hills, Michigan) was named as a respondent in a FINRA complaint alleging that he instructed a public customer—a senior investor—to write him checks totaling $135,000 and represented to her that he had invested the funds in annuities but instead he used the funds for his own benefit or for the benefit of someone other than the customer, without the customer's knowledge or consent. The complaint alleges that Newel failed to respond to FINRA requests for information and documents. **(FINRA Case #2010021728601)**

Jan D. Smida (CRD #4052976, Registered Representative, Arlington, Massachusetts) was named as a respondent in a FINRA complaint alleging that he recommended and sold a $1 million variable universal life insurance policy (VUL) to a customer without having reasonable grounds for believing that the transaction was suitable for the customer in light of the customer's financial situation, investment objectives and needs. The complaint alleges that, according to the application for the VUL Smida prepared, the customer had an annual income of approximately $125,000, an amount Smida computed; most of this amount represented unrealized gains on variable annuities the customer owned. The complaint alleges that Smida's recommendation was inconsistent with a reasonable expectation that the customer had the financial ability to meet the monthly premium commitment, which exceeded the customer's earned and social security income. The complaint also alleges that as a result of partial withdrawals from variable annuities the customer had previously purchased to pay for the VUL, the customer incurred $1,812.76 in surrender charges; the variable annuity issuer withheld money for federal and state taxes arising from several of the withdrawals, and Smida received a sales commission of $25,200 for his sale of the $1 million VUL to the customer. The complaint further alleges that Smida knew that the VUL would have lapsed within a year had the customer discontinued her premium payments and she would have forfeited all of the money paid to the policy. **(FINRA Case #2008013405801)**

Firms Suspended for Failure to Supply Financial Information Pursuant to FINRA Rule 9552

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Optionvue Securities Corp.
Libertyville, Illinois
(November 5, 2010 – January 11, 2011)

Pyramid Financial Corp.
Cupertino, California
(November 2, 2010)

Individuals Revoked for Failing to Pay Fines and/or Costs Pursuant to FINRA Rule 8320

(If the revocation has been rescinded, the date follows the revocation date.)

Eric Robinson Elliott
Miami Beach, Florida
(November 22, 2010)

Steven Michael Rabinovici
Plainview, New York
(November 5, 2010)

Individuals Barred Pursuant to FINRA Rule 9552(h)

(If the bar has been vacated, the date follows the bar date.)

Kenneth Bruce Beck
Scott Depot, West Virginia
(November 1, 2010)

Elizabeth Mae Eldridge
Atoka, Oklahoma
(November 8, 2010)

Robert Michael Garcia
Tijeras, New Mexico
(November 29, 2010)

Donald Bruce Goldman
Indianapolis, Indiana
(November 1, 2010)

David Kempert
Charlotte, North Carolina
(November 8, 2010)

Jong H. Kim
Fort Lee, New Jersey
(November 15, 2010)

Thomas Preston Osborn
Lexington, Kentucky
(November 29, 2010)

Karlo Dizon Pizarro
Las Vegas, Nevada
(November 8, 2010)

Michael Angel Vivero
Miami, Florida
(November 23, 2010)

Jacqueline Elaine Walker
Waco, Texas
(November 2, 2010)

Steven Patrick Wilson
Huntington Beach, California
(November 16, 2010)

Individuals Suspended Pursuant to FINRA Rule 9552(d)

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

John Michael Andrews
Potomac, Maryland
(November 1, 2010)

Raymond Eugene Bolton Jr.
Louisville, Kentucky
(November 5, 2010)

Indre Bugyte
Clearwater, Florida
(November 8, 2010)

John Willis Hurst
Charlotte, North Carolina
(November 22, 2010)

Tae J. Kim
Fort Lee, New Jersey
(November 12, 2010)

Victor Labi
Eastchester, New York
(November 1, 2010)

Donald Carl Levings
Whitefish Bay, Wisconsin
(November 12, 2010)

Adam David Moore
Plainfield, Indiana
(November 12, 2010)

Matthew J. Niu
Coolidge, Arizona
(November 22, 2010)

Anthony M. Simone
Niskayuna, New York
(November 8, 2010)

Ronald Harris Sirota
Jamesville, New York
(November 8, 2010)

Ronald Dale Tenison
Grants Pass, Oregon
(November 8, 2010)

Michael Albert Vieane
Dallas, Texas
(November 22, 2010)

Charles Roger Webster
Lincroft, New Jersey
(November 19, 2010)

Individuals Suspended for Failure to Comply with an Arbitration Award or Settlement Agreement Pursuant to FINRA Rule 9554

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Brent Robert Bishop
Tulsa, Oklahoma
(November 4, 2010)

Jason John Cooney
Port Neches, Texas
(September 8, 2010)

Donald Anthony Duarte Jr.
La Puente, California
(November 4, 2010)

Jeffrey Allan Forrest
San Luis Obispo, California
(June 29, 2009 – November 29, 2010)

Robert Douglas Hassell
Indianapolis, Indiana
(November 4, 2010)

James Paul Hodgins
Laguna Niguel, California
(November 24, 2009 – November 18, 2010)

Troy Anthony Joseph
Stone Mountain, Georgia
(November 18, 2010)

James Roberts Miller
Whitehouse, Texas
(November 4, 2010)

Matthew Noel Murray
New York, New York
(November 11, 2010)

Kenneth Arthur Parker
Lees Summit, Missouri
(November 2, 2010)

Leo Sala III
Lutz, Florida
(November 4, 2010)

Lee J. Thorpe
Parrish, Florida
(November 11, 2010)

Kevin Antony Williams
Riverside, California
(November 18, 2010)

Bryan James Ziencik
New Kensington, Pennsylvania
(November 11, 2010)

Goldman Sachs to Pay $650,000 for Failing to Disclose Wells Notices

Firm is Ordered to Review its Procedures and Systems and Document Corrective Measures

The Financial Industry Regulatory Authority (FINRA) has fined Goldman, Sachs & Co. $650,000 for failing to disclose that two of its registered representatives, including Fabrice Tourre, had received formal notices from the Securities and Exchange Commission (SEC) that they were the subjects of investigations. Tourre's "Wells Notice" was issued in connection with the SEC's investigation of an offering of a synthetic collateralized debt obligation (CDO) called ABACUS 2007-ACI (Abacus).

Firms are required to update a representative's regulatory record by filing a Form U4 reporting the receipt of a Wells Notice within 30 days of learning of the Notice. In Tourre's case, his Form U4 was not amended until May 3, 2010, more than seven months after Goldman learned of his Wells Notice, and only after the SEC filed a complaint against Goldman and Tourre on April 16, 2010.

FINRA found that Goldman did not have adequate supervisory procedures and systems in place to ensure that required disclosures were made when registered employees received notice that they were the subject of a regulatory investigation. FINRA also found that Goldman's written supervisory procedures, manuals and policies were inadequate. Nowhere did the procedures and policies mention "Wells Notices" specifically and the need to make disclosure when one was issued.

"Goldman's failures impacted the ability of FINRA and other securities regulators to discharge their registration, examination and oversight duties, and limited the ability of investors and other market participants to adequately assess the individuals through FINRA's public disclosure program, BrokerCheck," said James S. Shorris, FINRA Executive Vice President and Acting Chief of Enforcement.

Individuals at Goldman were promptly informed of the receipt of the Wells Notices by the outside counsel for both employees, but they subsequently failed to notify the Goldman compliance unit charged with updating Forms U4. The second registered individual subsequently was not named in an SEC complaint.

As part of the settlement, Goldman also agreed to review its supervisory procedures and systems in the reporting area and to implement and document any necessary remedial measures.

In concluding this settlement, Goldman neither admitted nor denied the charges, but consented to the entry of FINRA's findings.